

REMARKS

Claims 1-40 are pending. Claim 1 is amended to clarify the claimed subject matter as detailed herein below.

No new subject matter is being introduced.

Specification

The disclosure is objected to because of the presence of “;” between each Figure description on page 5, lines 3-29.

The Applicant is unaware of any requirement which states that the “Brief description of the drawings” section must separate each Figure description with periods instead of semi-colons. The Applicant however invites the Examiner to bring forth the statutory requirement that would justify such an amendment.

In light of the above, the Applicant submits that the disclosure as presently on file is allowable and thus kindly requests withdrawal of the objection set forth.

Claim Rejections – 35 U.S.C. 101

Claims 1 to 38 are rejected for failing to fall within one of the statutory categories of invention. It is alleged that the presently pending claims are not tied to either (1) a particular apparatus or (2) transform underlying subject matter such as an article or material to a different state or thing.

In response, the Applicant submits that the currently amended claim 1 now clearly defines a transformation occurring within a processing device: the acquisition of the image induces a change in a state which is identifiable from the output of the digital code.

In light of the above, it is respectfully requested that the rejections under 35 USC 101 be reconsidered and the rejections withdrawn. The Applicant submits that claim 1 and dependent claims 2 to 38 do fall under a statutory category.

Double Patenting

In response to the non-statutory Double Patenting rejections, please consider the Terminal Disclaimer in compliance with 37 CFE 1.321(c), which is concurrently filed under separate cover with payment of the fees set forth under § 1.20(d). This disclaimer is filed so as to affect both set of rejections set forth in both pending applications 11/313,724 and 10/561,910.

In light of the Terminal Disclaimer form filed herewith, the Applicant respectfully requests withdrawal of the Double Patenting rejection.

In view of the above, the Applicant respectfully submits that the present application is allowable. A notice to this effect is thus earnestly solicited.

Respectfully,

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